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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,754	12/21/2001	Lucio Pieroni	AA510	3766

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EXAMINER

SPISICH, MARK

ART UNIT PAPER NUMBER

1744

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/027,754	PIERONI ET AL.	
	Examiner	Art Unit	
	Mark Spisich	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Knight (USP 6,170,108). The patent to Knight discloses a hand-held scrubbing device (10) comprising a waterproof (column 2, lines 62-64) casing (33) including a motor (column 2, line 5), battery (38), dispensing chamber (44) including a soap, a dispensing orifice (46), a dispensing activator (61) joined to a dispensing mechanism (column 4, lines 1-13) and a scrubbing surface (47) joined to the motor and which scrubbing surface is a non-woven material (a bristled brush in fig 3 and a sponge in fig 4 are both non-woven materials). With respect to lines 15-16 of claim 19, the motor is activated only when the activator (43) is activated.

3. Claims 1-4,13,14,18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Enoch (USP 5,881,418). The patent to Enoch discloses a hand-held scrubbing device comprising a casing (10) which includes two halves with a gasket (38) there between (i.e. it is “waterproof”; also see column 3, lines 32-35) and in interior area

including a motor (12), battery (14), dispensing chamber (28), orifice (30), dispensing activator (32) at least indirectly coupled to a dispensing mechanism (69,70) and a scrubbing surface (26) and further wherein the "device" is configured to having an axis thereof pas through the scrubbing member. As sponge (26) is a non-woven material (claim 18) and the motor (12) would only be activated upon the activation of the switch (20).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4,6-8,10,11 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madison (USP 5,423,102) in view of Fry et al (USP 4,724,563). The patent to Madison discloses a hand-held scrubbing device (10) comprising a casing (12), motor (200, battery (54), dispensing chamber (84) including a cleaning fluid (F), a dispensing orifice (90) joined to a dispensing mechanism and a dispensing activator (38) and a scrubbing surface (eg, 74) joined to the motor. The patent to Madison discloses that the cleaning device is used with a cleaning fluid but fails to state that the housing is "waterproof". The concept of providing a waterproof or water tight housing is well known in the art and is taught by Fry (see column 4, lines 25-26). It would have been obvious to one of ordinary skill to have modified the device of Madison as taught by Fry to minimize the chance of water or cleaning fluid damaging the contents of the

casing. With the regard to the recitation that the device has a generally wand-like shape that is intended to be gripped like a flashlight, this limitation is still met by the patent to Madison as it is **generally** wand-like and the comparison to a flashlight is noted; however, flashlights do not have a uniform configuration and in fact some flashlights have a handle/gripping surface (40,44) as in Madison. The scrubbing surface of Madison is generally oriented along an axis of the device such that said axis passes through at least a portion of the scrubbing surface. The patent to Madison discloses a scrubbing surface being coupled to a pivoting portion (16) (claim 8). With regard to claim 7, the patent to Madison discloses a re-charging portion for connecting the device to a charging device. The use of a charging stand is well known to re-charging battery-powered devices and would be obvious to one of ordinary skill to also facilitate storing of the device when not in use. One would deem it obvious to make the device as heavy or light as desired (claim 10) and one would also deem it obvious to make the device as quiet as possible (claim 11). With regard to claims 15-17, the present application merely states that the cleaning solution would be chosen to match the article being cleaning and there is no suggestion that one of claims 15-17 define an otherwise novel cleaning composition. One of ordinary skill would deem it obvious to use any known cleaning fluid (F) in the reservoir (84) depending on the surface being cleaned. With regard to claim 18, a bristled brush is a non-woven material. With regard to claim 19, the motor would be activated only upon activation of the switch (24).

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madison (USP 5,423,102) and Fry et al (USP 4,724,563) as applied to claim 1 above, and further

in view of Hart (USP 3,316,428). The prior art discloses the invention substantially as claimed with the exception of the vibration damper. The patent to Hart discloses the provision of rings (30,32) adjacent a motor (42). It would have been obvious to one of ordinary skill to have provided such a means to the device of Madison to dampen out unwanted vibrations.

7. Claims 1-4,10,11 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanusse (USP 3,943,591) in view of Fry et al (USP 3,943,591). The patent to Lanusse discloses a device (1) comprising an interior area comprising a motor (15), battery (22), dispensing chamber (2), orifice (7) for supplying a cleaning fluid, dispensing activator (24) and scrubbing surface (11). The embodiment of figure 3, which has the configuration recited in the added text (claim 1, lines 19-22), is said to have particular utility for cleaning dishes or the like and scouring pans (column 4, lines 13-24). This embodiment has all of the elements of figure 1 and differs only in the external shape thereof. The patent to Lanusse discloses the invention substantially as claimed with the exception of stating that the casing is "waterproof". The concept of providing a waterproof housing for a powered cleaning device is well known in the art and is taught by Fry (column 4, lines 25-26). It would have been obvious to one of ordinary skill to have modified the device of Lanusse as such to minimize the chance of damaging the internal components of the device by water, etc. With regard to claims 10-11, the optimizing of the weight and the noise level would be obvious design choices would could be arrived at through routine experimentation. The particular cleaning/scouring composition use in the device would be obvious to one of ordinary

skill depending on the article to be cleaning. The cleaning composition of claims 15-17 is not asserted to be novel in itself. With regard to claim 18, a bristled brush is a non-woven material and with regard to claim 19, the switch (24) would operate the motor only when it is activated.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lanusse (USP 3,943,591) and Fry (USP 4,724,563) as applied to claim 3 above, and further in view of Price (USP 3,026,552). The patent to Lanusse discloses the invention substantially as claimed with the exception of the scrubbing surface being impregnated with a cleaning composition. The patent to Price discloses a scrubbing surface (40) which may be impregnated with **any** cleaning composition (column 2, lines 66-68). The use of the particular composition(s) recited in claim 12, which are all known cleaning compositions, would amount to an obvious choice of design to one of ordinary skill.

Response to Arguments

9. Applicant's arguments filed 24 May 2004 have been fully considered but they are not persuasive. SOME of applicant's arguments/comments have been deemed persuasive. For example, the amendment to claim 1 (lines 19-22) has overcome the rejection(s) based on Knight (USP 6,170,108) and Starr (USP 3,396,417); however, it does not overcome the rejection based on Madison (USP 5,423,102). The device of Madison is generally elongated with the scrubbing surface at an end thereof and the device can be said to have AN axis passing through the scrubbing surface. It is also "generally wand-like". Reference to a flashlight has been noted; however, flashlights can have any number of shapes, including that of Madison. Applicant's comment

regarding claim 12 has been noted. The prior art as a whole well recognizes that a scrubbing material may include a detergent composition impregnated therein. The present specification provides numerous examples of KNOWN cleaning compositions which may be including in the scrubbing surface. The use of any known cleaning composition in the scrubbing surface would be obvious to one of ordinary skill in the art. One cannot expect a patent which deals solely with a battery-powered mechanical cleaning device to mention such a specific (BUT KNOWN) cleaning composition. It is further noted that applicant added new claims 18 and 19 without (1) even acknowledging that they were added in the first place and (2) without presenting any argument as to why they define over the prior art of record (given the fact that they do not include the limitation(s) that is argued). Lastly, applicant's amendment of claim 1 further necessitated a new ground(s) of rejection which even more clearly show the "flashlight" configuration which is argued.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

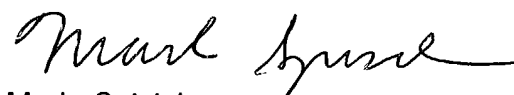
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

MS